

MINUTES - AMENDED
CLAY COUNTY PLANNING COMMISSION
7:00 TUESDAY, APRIL 20, 2021
THIRD FLOOR COURTHOUSE

Members Present: Steve Mortensen, Mark Klevgaard, Ezra Baer, Joel Hildebrandt, Steve Lindaas, Jenny Mongeau, Laura Johnson, Bill Davis, Kurt Skjerven, Andrea Koczur, Curt Stubstad

Members Absent: None

Others Present: Caitlyn Hurlock, Matt Jacobson, Erika Franck, Rita Rueckert, David Overbo, Ron Aakre, Greg Krause, Adam Altenburg, Frank Gross, Julie Kennedy, Mary Krog, Kelly Erdmann, Steff Basgaard, Justin Sorum, Kim Carpenter, Troy Nelson, LeRoy Turner, Scot Manthe

ROLL CALL: Meeting was called to order at 7:00 PM by Chair Bill Davis.

VIRTUAL MEETING GUIDELINES AND RULES:

Director Matt Jacobson went over the rules and guidelines for attending a virtual meeting.

APPROVAL OF AGENDA:

On motion by Ezra Johnson, seconded by Steve Lindaas, and unanimously carried, the Planning Commission approved the Agenda as presented.

APPROVAL OF MINUTES FROM MARCH 16, 2021 MEETING:

Jenny Mongeau advised a correction required on page 5, as the Courthouse has not been formally changed to Justice Center.

On motion by Steve Lindaas, seconded by Ezra Baer, and unanimously carried, the Planning Commission approved the March 16, 2021 Minutes with the above-noted correction.

CITIZENS TO BE HEARD:

There were no citizens wanting to speak on any items not on the Agenda.

PUBLIC HEARINGS:

KELLY ERDMANN – REQUEST FOR CONDITIONAL USE PERMIT

The applicant is seeking approval of a conditional use permit for a private storage building in the Special Protection – Shoreland Zoning District on parcel 24.027.1400, the SE1/4 of the NE1/4, Section 27, Township 138N, Range 44W, Parke Township.

On motion by Ezra Baer, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, advised that this application is for a private storage building for personal use

in a Shoreland Zoning District, which requires a Conditional Use Permit due to the Zoning District. The location is south and east of the Minnesota Steam Threshers Reunion property and north of Lake Laura. The proposed location is on the north side of 102nd Avenue South. The property is owned by the Bang Family Revocable Living Trust and Applicant plans to purchase a roughly 3.6-acre lot from Bruce Bang if the Conditional Use Permit is approved. The following 10 Development Code standards for this situation are set out as follows:

1. The structure shall not be used as a residence.
2. The structure shall not be serviced with sewer and/or water.
3. The structure may be placed on either a temporary or permanent foundation.
4. The structure's maximum square footage (footprint) is 5% of the total lot area or 1,500 square feet, whichever is less.
5. The structure must meet all applicable setbacks for the zoning district in which it is located.
6. The structure may not be used to house or support animals of any type.
7. The structure cannot be used for any commercial and/or business uses including the storage of materials, vehicles, or other items used for commercial or business purposes.
8. May be located in shoreland districts only.
9. The private storage building must be of a design and workmanship consistent with the surrounding area.
10. A Conditional Use Permit is required.

Applicant wishes to use this structure for storage of personal hunting and fishing equipment. The current site is fallow ground. The structure would need to be placed 20 feet from the road right of way. Three acres is the minimum parcel size for a non-riparian shoreland lot. This lot would be subject to 25% of impervious surface standard, which would include gravel driveways, concrete aprons, and building structures.

Applicant was present for the hearing. He concurred with the facts as presented by Director Jacobson.

On motion by Steve Lindaas, seconded by Andrea Koczur, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed and discussed by the Planning Commissioners as they pertain to the requested permit. All items can be addressed with conditions applied.

On motion by Mark Klevgaard, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission *GRANTED* the Conditional Use Permit for a storage building within Shoreland Zoning District.

KNIFE RIVER MATERIALS – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking approval of an interim use permit to allow a 25-acre expansion of a 39-acre gravel mining operation on parcel 24.036.2500, the N1/2 of the NW1/4, Section 36, Township 138N, Range 44W, Parke Township.

On motion by Ezra Baer, seconded by Steve Lindaas, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, advised that the Applicant applied for an IUP for a 25-acre expansion of a current gravel pit to what is known as the Bang pit. The following Comprehensive Plan Policy Considerations were reviewed:

Land Use Goal #2: Support the long-term protection of agriculture in the County.

- Policy #1: Recognize and support the agricultural character of the County in all planning efforts.

Land Use Goal #5: Plan land uses and implement standards to minimize land use conflicts.

- Policy #1: Prepare and adopt a land use plan that designates land use areas to ensure desirable land use patterns and minimize conflicts.
- Policy #2: Require adequate transitions between different land uses through appropriate land use planning and zoning standards.
- Policy #3: Require adequate buffering and landscaping for new mining operations when adjacent to existing residential areas as well as when an existing operation expands or is substantially modified and would negatively impact existing land uses in the surrounding area.
- Policy #4: Require phased end-use reclamation plans as a condition for a gravel-mining permit so that areas are reclaimed as they done being mined.

Natural Resources Goal #1: Identify, protect, and preserve the County's high quality natural, scenic, cultural and open space areas.

- Policy #19: Balance the preservation of native prairie areas with mining of the county's gravel resources.

This site is a 282-acre parcel and was originally granted a CUP for mining and asphalt mix plant in 2009 for 35 acres. The current zoning is Agriculture General (AG) and Resource Protection-Aggregate (RP-Agg). There is also some Resource Protection-Biological (RP-Bio) zoning on this site. Mining is allowed in the AG and the RP-Agg with an Interim Use Permit; mining is not allowed in the RP-Bio without an Environmental Assessment Worksheet (EAW).

Knife River was granted a Permit in 2019 for 35 acres of mining and a hot mix asphalt plant. It appears between 2011-2013 approximately 60 acres were mined, exceeding the permitted 35 acres by 25 acres. In 2009 the pit was around 30 acres in size. There was a small amount which infringed on the Resource Biological area. The Applicant was granted a new Interim use Permit (IUP) in 2015. The 2015 IUP expired December 31, 2020. The acreage exceedance was not mentioned in the minutes for the 2015 IUP public hearing. In 2015 the pit was approximately 73 acres with 38 acres not reclaimed. Photos do show some early stages of reclamation. In 2019 the pit was approximately 46 acres in size. The Applicant states 25 acres of the previously mined area has been reclaimed.

At this time the Applicant is seeking an IUP for 25-acre expansion of a site that was previously permitted for a 35-acre and 39-acre aggregate mining operation. The mining plan is for 2 stages: Stage 1 is 12 acres to be mined from 2021-2023 and stage 2 is 13 acres from 2023-2025. Approximate final depth is estimated to be 50 feet. All required permits have been issued by the State and other regulating agencies. Stage 1 is to the north of the current pit; stage 2 is to the east of that. Total excavation of the two phases is estimated at one million cubic yards. There are wind towers along the edge of this parcel. There are no setbacks standards for gravel pits from wind towers, but the towers cannot be in the pit. There are setbacks of 100 feet from property line, 200 feet from roadways and also setbacks from the onsite lines connecting the wind towers. Onsite gravel washing will occur in a closed loop wash system. The volume of water used to recharge the closed loop wash system ranges from 500,000 to 1 million gallons. This water will be from an onsite well. No dewatering is expected from this site.

The DNR depth to water table estimate is 10-30 feet and there are no wetlands within the site or within a mile of the site. The area to the south/southeast is native prairie and has a Minnesota Biodiversity Site significance rating as moderate.

Applicant plans to do interior sloping to control runoff. There will be berming on the exterior of the mine.

Unstable soils will be stabilized with perennial vegetative cover. Site will be sloped 3:1, pit will be leveled, and stored topsoil will be placed over the disturbed area. No post reclamation water features are anticipated and the area will be returned to pasture.

The following options are proposed for consideration:

1. Approve request for entire 25 acres; or
2. Approve request for Stage 1 of 12 acres and require new IUP in 2023; or
3. Approve request for 25 acres and have Planning & Zoning inspect when Stage 1 is complete in 2023 before beginning Stage 2; and,
4. Require applicant to complete a discretionary EAW.

Staff recommendation is to approve the Interim Use Permit but due to the significant exceedance of permitted acreage that occurred between 2010-2013, staff recommends approving only stage 1 (approximately 12 acres) and with the following conditions:

1. Operate within provisions of the Clay County Land Development Ordinance, especially the specific setbacks required for mining operations and batch plants.
2. No part of the mining operation shall be placed or take place in the Resource Protection Biological (RP-Bio) overlay zone or within 100 feet of this zone.
3. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads. Chloride must be used for dust control within 1000 feet of any residence along the haul road.
4. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall be in compliance with any and all local/state/federal regulating agencies prior to commencing mining operations.
5. Operations must comply with all provisions of Wetlands Conservation Act.
6. Operator permitted to mine up to 12 acres. If additional acres are proposed to be opened in the future a new or amended IUP would be required.
7. Operator must post a reclamation bond of \$4000 per acre.
8. Operator shall reclaim mined out areas as mining activities progress. Areas are to be seeded to native prairie grasses or to landowner's specification upon reclamation.
9. Operator shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.
10. Operator to present a detailed mining plan to Planning Office indicating exact area to be mined.
11. Operator shall obtain DNR Appropriation of Public Waters permit and forward copy of permit to Planning Office.
12. Batch plant operations: April 1 thru November 15; hours shall be limited to 6:00 a.m. to 9:00 p.m., Monday through Saturday. If the operator needs to operate 24/7 or beyond stated days/hours, they shall first notify the Planning Office with a reason and the length of time requested so the extended hours can be approved and any affected property owners notified.
13. Mining operations: January through December; hours of mining, crushing, screening, washing and hauling shall be limited to 6:00 a.m. to 9:00 p.m., Monday through Saturday. If the operator needs to operate 24/7 or beyond stated days/hours, they shall first notify the Planning Office with a reason and the length of time requested so the extended hours can be approved and any affected property owners notified.
14. Permit shall expire in 2 years, on May 1st, 2023.

It was clarified that Knife River applied for the 2009 permit. Rules of requirement for an Environment Assessment Worksheet (EAW) were discussed and how they would apply to this particular situation. State of Minnesota has a three-year look back rule for the EAW. Nothing has been heard from Minnesota Department of Natural Resources (DNR). The pit currently appears to have approximately 46 acres open.

Approximately 2-4 employees will be working on site. Applicant is requesting operation of January through December each year, twenty-four hours a day and seven days a week as projects dictate. Schedule is on a temporary basis and based on projects received.

Steff Basgaard, Environmental Manager of Knife River Materials, addressed the situation of the original 39-acre IUP request. Mr. Basgaard advised that the Permit was requested by someone else within their company. The original 30 acres in 2009 was not very deep with minerals and was basically mined out. The bulk of that area was used for asphalt plant and storage area and not being mined. He feels that the original area is not very deep and the EAW requirement would only be required if they went more than 10 feet deep and the original 39 acres were not excavated to that depth.

Applicant states that they are not currently mining in this pit and there are stockpiles basically down most of the middle of this excavated area. He understands that the whole area that encompasses the pit and stockpile holding areas would be included in the total acreage requested. There were discussions regarding 2 years or 5 years for expiration of the requested permit; Applicant stated he would prefer 10 years. The 5-year window matches with the lease agreement with the landowner. He advised that Knife River will be honoring all setbacks as well as the wind tower easements on their line. One of the major stockpiles in the center area does belong to the landowner and is not the property of Knife River. Director Jacobson advised that the 25-acres of property that have been reclaimed does look very well based upon his personal onsite observation. Director Jacobson believes that the quality of the reclamation done is a reflection of the higher-than-average reclamation bond of \$4000 per acre which the Applicant has provided.

On motion by Ezra Baer, seconded by Steve Lindaas, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed and discussed by the Planning Commissioners as they pertain to the requested permit. All items can be addressed with conditions applied.

Ezra Baer asked if Condition 12 should be included if the next hearing for the Planning Commission is the Applicant's request for a batch plant operation. It was agreed that this Condition 12 should be excluded from this particular Interim Use Permit. There was additional discussion regarding hours of operation. There were no comments received from any neighbors.

There was active discussion regarding each of the various options of Recommendation. There was also discussion regarding yearly inspections of Permits by the Planning & Zoning Department. Jenny Mongeau and Andrea Koczur both stated their support of the inspections being conducted regularly by the Planning & Zoning Department personnel.

On motion by Ezra Baer, seconded by Mark Klevgaard, for Recommended Option #1, and Conditions 1-11, 13 and 14. Motion was amended by Steve Lindaas, seconded by Mark Klevgaard and unanimously carried, the Planning Commission *GRANTED* the Interim Use Permit with Recommendation #3 which is: Approve request for 25 acres and have Planning & Zoning inspect when Stage 1 is complete in 2023 before beginning Stage 2 to include a yearly inspection by the Planning & Zoning Department personnel and with the following conditions:

- 1 Operate within provisions of the Clay County Land Development Ordinance, especially the specific setbacks required for mining operations and batch plants.**
- 2 No part of the mining operation shall be placed or take place in the Resource Protection Biological (RP-Bio) overlay zone or within 100 feet of this zone.**
- 3 Operator shall control dust and provide necessary maintenance on any/all gravel haul roads.**

- Chloride must be used for dust control within 1000 feet of any residence along the haul road.
- 4 Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall be in compliance with any and all local/state/federal regulating agencies prior to commencing mining operations.
 - 5 Operations must comply with all provisions of Wetlands Conservation Act.
 - 6 Operator permitted to mine up to 25 acres. If additional acres are proposed to be opened in the future a new or amended IUP would be required.
 - 7 Operator must post a reclamation bond of \$4000 per acre.
 - 8 Operator shall reclaim mined out areas as mining activities progress. Areas are to be seeded to native prairie grasses or to landowner's specification upon reclamation.
 - 9 Operator shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.
 - 10 Operator to present a detailed mining plan to Planning Office indicating exact area to be mined.
 - 11 Operator shall obtain DNR Appropriation of Public Waters permit and forward copy of permit to Planning Office.
 - 12 Mining operations: January through December; hours of mining, crushing, screening, washing and hauling shall be limited to 6:00 a.m. to 9:00 p.m., Monday through Saturday. If the operator needs to operate 24/7 or beyond stated days/hours, they shall first notify the Planning Office with a reason and the length of time requested so the extended hours can be approved and any affected property owners notified.
 - 13 Permit shall expire on May 1st, 2026.

KNIFE RIVER MATERIALS – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking approval of an interim use permit to allow the operation of a temporary hot mix asphalt plant on parcel 24.036.2500, the N1/2 of the NW1/4, Section 36, Township 138N, Range 44W, Parke Township.

On motion by Ezra Baer, seconded by Steve Lindaas, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, advised that this request is for the same parcel and zoning as the previously heard request. The request is for a hot mix asphalt plant on a temporary basis for a five-year period. Operation season is April 1st through November 15th each year. Setbacks were reviewed: 300 feet from property lines, 500 feet from highway or road right of way, 1000 feet from a residence, church, school or public establishment. All setbacks appear to be in order for this request. Haul route is the same as the gravel pit, going down 290th Street to County 6 to then go east or west.

Staff recommendations are to approve the IUP with the following conditions, which are essentially the same as the 2015 IUP:

1. Permit shall terminate on December 31, 2026.
2. Operate within provisions of the Clay County Land Development Ordinance.
3. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads.
4. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required to the Planning Office and shall be in compliance with any and all local/state/federal regulating, agencies prior to commencing mining operations.
5. Operations must comply with all provisions of Wetlands Conservation Act.
6. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities

consistent with County regulations as determined by the Planning Department and County Health Department.

7. Require operator to present a detailed operations plan for asphalt plant operations to the Planning Office indicating equipment locations and locations of hazardous material storage and safety measures to be taken to prevent spillage prior to commencing any operations at the site.
8. Hours of operation: April 1 thru November 15; hours shall be limited to 6:00 a.m. to 9:00 p.m., Monday through Saturday. If the operator needs to operate 24/7 or beyond stated days/hours, they shall first notify the Planning office with a reason and the length of time requested so the extended hours can be approved and any affected property owners notified.

Applicant Steff Basgaard advises that they do have a job for the batch asphalt plant for this coming year. There was confusion over the 5 year/2026 permit expiration difference, and he stated that they wish for 5 years. Asphalt plant operations are normally done by the end of October.

Steve Lindaas asked about the exact location in relation to the Resource Biological Protection Zoning District. Applicant clarified that it is to the west of the stockpiles and is not in the Resource-Bio District. It is the same spot that the batch plant has been placed in the past. There have been no comments received from the neighbors.

On motion by Ezra Baer, seconded by Steve Lindaas, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed and discussed by the Planning Commissioners as they pertain to the requested permit. All items can be addressed with conditions applied.

Clarification was determined on the termination date of 5 years to be December 31, 2025, which is 5 seasons, and this coincides with the Applicant's current lease.

On motion by Steve Lindaas, seconded by Ezra Baer, and unanimously carried, the Planning Commission *GRANTED* the Interim Use Permit for a hot mix batch plant with the following conditions:

1. Permit shall terminate on December 31, 2025.
2. Operate within provisions of the Clay County Land Development Ordinance.
3. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads.
4. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall be in compliance with any and all local/state/federal regulating agencies prior to commencing mining operations.
5. Operations must comply with all provisions of Wetlands Conservation Act.
6. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with county regulations as determined by the Planning Department and County Health department.
7. Require operator to present a detailed operations plan for asphalt plant operations to Planning Office indicating equipment locations and locations of hazardous material storage and safety measures to be taken to prevent spillage prior to commencing any operations at the site.
8. Hours of operation: April 1 through November 15; hours shall be limited to 6:00 a.m. to 9:00 p.m., Monday through Saturday. If the operator needs to operate 24/7 or beyond stated days/hours they shall first notify the Planning office with a reason and the length of time requested so the extended hours can be approved and any affected property owners notified.

TURNER SAND & GRAVEL, INC. – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking approval of an interim use permit to allow a 36-acre gravel mining operation on parcel 04.006.3004, the NE1/2 of the SW1/4, Section 6, Township 139N, Range 44W, Eglon Township.

On motion by Ezra Baer, seconded by Steve Lindaas, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, stated this is for a 36-acre gravel mining pit on a 73-acre parcel just to the east outside of Hawley. It is zoned Agricultural General (AG)/Resource Protection-Aggregate (RP-Agg)/Shoreland/Special Protection – Rivers and Streams (SP)/Floodplain Fringe. Policy considerations are the same as the above Knife River Interim Use Permit mining request.

This site was originally mined for gravel in the 1980s and intermittently on a small scale in the 1990s and 2000s. The site is currently an abandoned gravel pit and has not been reclaimed and there is an estimated 40,000-50,000 cubic yards of extractable material remaining in the pit. If approved the Applicant also intends to request a Variance for excavation into the 100-foot property line setback to the east.

Excavation will occur intermittently as materials are needed. Mining activities will begin to the south and move north towards the road. Crushing, screening, and stockpiling will occur on-site. No de-watering or washing will occur. Estimated water table depth is about 8 feet. Applicant would like to mine below the water table if materials are present to approximately 3 feet. There will be 3-5 employees onsite. Operating hours requested for April through December, Monday through Saturday, 7AM to 7PM for 5 years. Haul route would be from the pit east to Highway 32 or west and south to the area of 240th Street. This road is shared with Eglon Township and the City of Hawley. City of Hawley currently provides the road maintenance.

There are multiple riparian wetlands to the south of the project. There is one wetland within the proposed pit boundaries but this is likely an incidental wetland created because of the previous pit. When considering setbacks, only 15 acres of the original pit are minable. If excluding the wetland from the plan, only 9 acres would become minable. Proposed pit includes soils with a hydric rating of 1-32%, which is a low chance of additional wetland conditions existing. A wetland evaluation would need to be conducted by the Clay County Soil & Water Conservation District to determine if there are additional wetlands. Incidental wetlands are exempt from Minnesota regulations but not exempt from the Clean Water Act Section 404 Public Water Permitting Process, which is done by the Corps of Engineers. Aerial maps were reviewed with great detail given to each identified area of wetland, hydric soils, and previous pit location. Based on Director Jacobson's observation, most of these soils would likely not be hydric. The Buffalo River is to the south.

No mining activities will occur within 300 feet of the Ordinary High Water Level (OHWL) of the Buffalo River or within 50-feet of wetlands. Pit will be sloped away from the river and towards the interior. Berms will be built where necessary. NPDES and SDES: Nonmetallic Mining and Associates Activities Permit may be needed from the State. Wetland evaluation to be completed by Clay SWCD to determine if Minnesota Wetland Conservation Act and/or Clean Water Act Section 404 permits will be required. Excavated area will be sloped, no highwall, benching or terracing will be required. Oversized materials and existing topsoil will be spread over the site. Due to lack of topsoil on the site and characteristics of the surrounding area, the Applicant and landowner intend to work with Clay SWCD, the US Army Corps of Engineers, and the Minnesota Board of Water and Soil Resources to restore the pit to a riparian wetland complex.

City of Hawley has shared their concerns about the hours of operation and also that the Applicant or Operator contributes to some of the maintenance on N Rodeo Drive for grading, graveling and dust control.

The following IUP Conditions are recommended by Staff for approving nine-acre area:

1. Operate within provisions of the Clay County Land Development Ordinance;
2. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads;
3. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall follow all local/state/federal regulations prior to commencing mining operations. If WCA and/or Section 404 permits are required, operator shall provide proof to the Planning Office.
4. Operator shall contact Clay County Soil & Water Conservation District and have wetland evaluation.
5. A maximum of 15 acres on areas identified by the Clay County Soil & Water Conservation District to contain non-hydric soils be approved for mining operations (excavation, screening, crushing, stockpiling, berming, etc.) If additional acres are proposed to be opened in the future, a new or amended IUP would be required. Mining on hydric soils or existing wetlands may require WCA and Section 404 permits;
6. Require applicant to post a reclamation bond or \$500 per acre;
7. Require applicant to reclaim mined out areas. Require areas to be reclaimed in consultation with Clay County SWCD, MN BWSR, MN DNR and USACE;
8. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Environmental Services Division;
9. Mining operations: April 1 thru December 31, 7:00 A.M. to 7:00 P.M., Monday thru Saturday, with an hour for maintenance before and after operating hours. If the operator needs to operate beyond stated days/hours they shall first notify the Planning Office with the reason and the length of time requested so the extended hours can be approved and affected property owners notified;
10. Maintain a 300' buffer from OHWL of the Buffalo River; No extractive use allowed in the Floodplain Fringe Overlay District;
11. Permit shall expire March 17, 2026 (Date lease terminates);
12. Other conditions as the Planning Commission deems necessary.

Ezra Baer asked if 15 acres should be allowed to clean up the area mined back in the 1980's. Mr. Baer asked if they were granted a Variance to go up to the property line, they would then be over 15 acres and asked if that scenario should be addressed at this time.

Steve Lindaas stated he felt the \$500/acre reclamation bond seems low and feels that at least \$1000 per acre would be more in line; Director Jacobson agreed. Mr. Lindaas asked if the concerns of the City of Hawley should be included within this Permit. Director Jacobson advised that the City of Hawley was pleased to know that road maintenance has been addressed within the recommended Permit Conditions. Ezra Baer asked if anything had been heard from Eglon Township regarding the haul roads; there has not been any comments from Eglon Township but there are representatives from the Clay County Highway Department present at the meeting to address any other road concerns.

Mark Klevgaard inquired about the mining below the water table. Matt Jacobson advised that these previous requests were more connected to the groundwater and upgradient of the wetland. This scenario would put more impact on the wetlands when going into the water table while upgradient. In this instance, the concern would not be as great because of lot of these wetlands receive their source from flooding of the river and they are not as dependent on groundwater but are more influenced by the rise and fall of the river.

Leroy Turner of Turner Sand & Gravel stated that the \$500 per acre reclamation bond provided was based on

another pit they recently reclaimed in this area and the costs on that pit were approximately \$1000 per acre. This pit in question is smaller and shallower so there will be less material required to be used/moved. He states that most of the gravel will be used for local roads and that they desire to clean this pit up nicely when they are done. They have future plans to come back to the Planning Commission for a Variance for setbacks once they have written permission secured from neighboring Asplin. Mr. Turner felt that if they only get 9 acres and have a lot of conditions and mitigation to be done, it may not be worth their effort. Director Jacobson also advised that costs of permitting and exploration may be too cost-prohibitive for the amount of materials available if there are wetlands present.

There have been no neighbor comments received.

On motion by Ezra Baer, seconded by Curt Stubstad, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed and discussed by the Planning Commissioners as they pertain to the requested permit. All items can be addressed with conditions applied.

There was a consensus that Condition 5 should be changed to a maximum of 15 acres plus any acres allowed by any future Variance permitted. It was also felt the reclamation bond should be increased to \$1000 per acre.

On motion by Ezra Baer, seconded by Steve Lindaas, and unanimously carried, the Planning Commission *GRANTED* the Interim Use Permit with the following Conditions:

1. Operate within provisions of the Clay County Land Development Ordinance.
2. Operator shall control dust and provide necessary maintenance on any/all gravel haul roads.
3. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall follow all local/state/federal regulations prior to commencing mining operations. If WCA and/or Section 404 permits are required, operator shall provide proof to the Planning Office.
4. Operator shall contact Clay Soil & Water Conservation District and have a wetland evaluation. Operations must comply with all provisions of WCA.
5. A maximum of 15 acres on areas identified by the Clay Soil & Water Conservation District to contain non-hydric soils be approved for mining operations (excavation, screening, crushing, stockpiling, berming etc.), plus any acres allowed by any future Variance acreage would be approved. If additional acres are proposed to be opened in the future beyond these two areas, a new or amended IUP would be required. Mining on hydric soils or existing wetlands may require WCA and Section 404 permits.
6. Require applicant to post a reclamation bond of \$1000 per acre.
7. Require application to reclaim mined out areas. Require areas to be reclaimed in consultation with Clay SWCD, MN BWSR, MN DNR and USACE.
8. Applicant shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Environmental Services Division.
9. Mining operations: April 1 through December 31, 7:00 AM to 7:00 PM, Monday through Saturday with an hour for maintenance before and after operating hours. If the operator needs to operate beyond stated days/hours they shall first notify the Planning Office with the reason and the length of time requested so the extended hours can be approved and affected property owners notified.

10. **Maintain a 300' buffer from Ordinary High-Water Level (OHWL) of the Buffalo River. No extractive use allowed in the Floodplain Fringe Overlay District.**
11. **Permit shall expire March 17, 2026 (date lease terminates)**

TREBIL PROPERTIES LLC – REQUEST FOR INTERIM USE PERMIT

The applicant is seeking approval of an interim use permit to allow a service business on parcel 21.002.2001 in part of the NW1/4 of the NW1/4 of Section 2, Township 139N, Range 48W, Moorhead Township.

On motion by Jenny Mongeau, seconded by Steve Lindaas, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, stated this is a request for a Service Business in Urban Expansion District Tier 1. The following Comprehensive Plan Policy Considerations were addressed:

Land Use Goal #2: Support the long-term protection of agriculture in the county.

- Policy #1: Recognize and support the agricultural character of the County in all planning efforts.

Land Use Goal #4: Plan for the orderly, efficient growth of commercial and industrial development in the county through the application of appropriate zoning districts and regulation.

- Policy #1: Encourage new commercial and industrial developments that require public sewer and water to locate within the County's cities in accordance with their Comprehensive Plans.
- Policy #2: Encourage commercial and industrial developments, which do not need public sewer and water, to locate within Planned Urban Growth Areas in locations with adequate road service.

Land Use Goal #5: Plan land uses and implement standards to minimize land use conflicts.

- Policy #1: Prepare and adopt a land use plan that designates land use areas to ensure desirable land use patterns and minimize conflicts.
- Policy #2: Require adequate transitions between different land uses through appropriate land use planning and zoning standards.
- Policy #6: Encourage the location of commercial and industrial development in areas that avoid adverse impacts on residential areas.
- Policy #7: Locate and design industrial and commercial developments to avoid truck traffic through residential or other potentially adversely affected areas.

SafeBasements North LLC currently operates a service business on this 14-acre parcel. The only remaining structure onsite is a 1973 9,600 square foot pole building that has been updated. Aerial photos were displayed of the site over the past several decades. Photos show the property had several structures, but most all were demolished or deteriorated to the point of being razed and most were buried on the site. MPCA violations occurred with a previous owner due to burying asbestos; those issues were addressed and resolved in 2018. The Applicant purchased this property with the intention of operating a commercial business as the property has a large commercial building, is classified as a commercial property for tax purposes and is adjacent to a similar service business. The realtor representing the previous owner was in contact with the Planning and Zoning staff in late 2019-early 2020 and was aware that the current zoning did not allow for the commercial use of the property.

Business is conducted primarily off-site. The building onsite is used for storage of vehicles, equipment and for maintenance work. There are currently three full time employees that operate out of the site. Hours are

typically between 6 AM to 6 PM. When you call the business, the phone is answered in Litchfield, MN. Access to County Road 9 is owned and is approximately 20 feet wide.

Service Business Standards as set out in Clay County Ordinance 2021-1 include:

1. Interim Use: Service Business shall be proposed as an interim use permit meeting the requirements of this section in addition to the general requirements for an interim use permit. A site plan shall be submitted with the interim use permit application showing the location of all existing structures and describing the proposed use. Only one interim use is permitted per parcel.
2. Limited to Existing Structures
3. No more than 15 full time employees.
4. They may have 1 non-illuminated sign on their building.
5. Traffic generated by the use has to be considered by the Planning Commission and shall not exceed that which is reasonable for the area in which it is located and the road adjacent to the service business.
6. No equipment or processes used in the service business shall create noise, vibration, glare, fumes, odors or electrical interference detectable off the premises.
7. Buffering may be required by the Planning Commission to minimize adverse effects on adjacent properties. This property is adequately buffered naturally by trees.
8. The use shall not create usage exceeding the capacity of available on-site sewage treatment and drinking water. The use shall not prematurely stimulate investment in public utilities in a municipality's future growth area.
9. Additional parking spaces may be required by the Planning Commission for the use of clients, deliveries, etc.
10. Service Business Interim Use Permits shall be reviewed and inspected every five years for compliance with conditions.

Applicant was not present for the meeting and did not have a representative on his behalf. Director Jacobson states that he has stressed to the Applicant that this is not a good place to largely grow a business and that if the situation arises where the business is beginning to encroach on the standards, they may want to look at a different location to expand.

Staff recommendation is to approve this Interim Use Permit request with the following conditions:

- Approve request with standards for Service Businesses in the Urban Expansion District (UED) Tier 1 Zoning District as conditions.
- Include condition that equipment or materials must not be stored on areas of the property zoned Flood Fringe.
- Any other conditions the Planning Commission deems necessary.

An aerial view of the parcel was reviewed showing the Flood Fringe Zoning District as it impacts this property.

Julie Kennedy, a neighbor to the property in question, stated that previous businesses were running without permits and all surrounding properties are residential. She said that Dilworth has this area labeled low development residential and not commercial. She expressed concern about the traffic coming in and out of this property in question. She also feels that this business is detrimental to the housing values in the area and their marketability. Ms. Kennedy feels that the Applicant wants to grow his business as he had stated this in an earlier hearing and expressed concern about potential subdividing of this or neighboring parcels to allow more businesses to come into this neighborhood.

On motion by Ezra Baer, seconded by Steve Lindaas, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed and discussed by the Planning Commissioners as they pertain to the requested permit. All items can be addressed with conditions applied.

In recognizing the City of Dilworth's future development, the development of this area would be developer driven and not driven by the city itself. Most of Dilworth's current focused growth is on the east edge of their town. Any future development for a subdivision would need to go through approval process with the city of Dilworth and it does not appear that this will be in the short-term future.

Director Jacobson recommended an expiration date on the Interim Use Permit. Several Planning Commission members felt five years would be a reasonable time.

On motion by Curt Stubstad, seconded by Steve Mortensen, and unanimously carried, the Planning Commission *GRANTED* the Interim Use Permit for a Service Business in UED Tier 1 with the following condition(s):

1. Interim Use Permit to expire May 1, 2026.

SCOT MANTHE – REQUEST FOR CONDITIONAL USE PERMIT AMENDMENT

The applicant is seeking an amendment to conditional use permit for a commercial storage business on parcel 04.050.0240, the NW1/4 of the NW1/4 of Section 7, Township 139N, Range 44W, Eglon Township.

On motion by Jenny Mongeau, seconded by Ezra Baer, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director, this is an Amendment Request to a 2017 CUP. This is a 72-acre parcel in Eglon Township. It is currently a residential parcel and also some Agricultural General use. The Applicant received a 2017 CUP for a commercial storage building; and in 2020 received a Building Permit for a personal agricultural storage building near the existing commercial storage building. There are concerns about this building from the neighbors to the east regarding views and potential impacts to property values. The proposed building would go directly to the west of the existing 14-unit commercial storage building and would be for 10 storage units within the requested building.

CUP Conditions from the 2017 Permit included:

1. Applicant shall obtain all applicable local/state/federal permits/reviews (i.e. Septic system, Storm Water Pollution Protection Plan (MPCA), WCA review, etc.) before any construction and shall provide copies of them to the Planning Office;
2. Facility signage shall meet HC or LHC sign standards (maximum of 128 sq ft per sign face (max of 2 faces) or 5% of the wall area on which sign is located) and any other applicable County sign standards;
3. Facility shall meet all applicable setback requirements as per the County Development Code;
4. No outdoor storage shall be allowed;
5. Days and hours of operation shall be year-round, open 24 hours, seven days a week;
6. Access off 240th St S shall obtain a permit from the Buffalo/Red River Watershed District;
7. The new private road shall not connect to the public roadway on the east end.

Property slopes from east to west so development on the east side of the property appeared reasonable for

that condition. The requested building should not have any impact on the views or property values of surrounding area.

The following conditions are recommended:

1. No outdoor storage shall be allowed;
2. Days and hours of operation shall be year-round, open 24 hours, seven days a week; and
3. Any other conditions the Planning Commission deems necessary.

The topic of screening was discussed. Screening would not seem necessary in this situation as the new building would be screened from view by the existing buildings on the site. Access would be on the private road to the west. Steve Lindaas asked if the Applicant's intent was for operation 24/7, but Director Jacobson advised that was their request. It was confirmed that traffic needs to enter from the road the Applicant constructed from the west. There were questions raised regarding the driveway extended to the agricultural storage building. The personal agricultural storage building is not sectioned for individual storage and is one open structure. The City of Hawley has this area slated as future commercial development.

Applicant Scot Manthe advises the agricultural storage building is currently housing his farm equipment and he has additional equipment yet to move into it. He also owns the Blossoms flower shop building on the corner. Mr. Manthe advised that he owns the access road along Highway 10 but was asked not to use it for his commercial storage area and ended up building a new road from the west. The previous commercial building was constructed as a one-sided building so there would not be lights shining in the neighboring properties, as a show of good will. He feels that the trees along the neighboring properties do provide a good amount of buffer from the commercial and agricultural buildings. He states that area properties have sold for significantly more money than their assessed value and that has happened since the storage building was constructed.

Lori and Greg Krause are neighbors to the east on the hill. They are concerned about the direction this request is heading and wonder how much these commercial businesses will take over this parcel. Their view of Hawley has now been blocked by the 40x240 commercial building. Lori Krause asked how many permits a landowner can apply for pertaining to agricultural zoned land? Matt Jacobson said that a landowner can request as many permits on their parcel as activity/uses on that agricultural land allows. Lori Krause also asked what reasonable construction hours are as the last build went considerably late at night. Matt Jacobson advised he would look into that situation but did state that the State of Minnesota has noise ordinances that may address these concerns. Lori Krause advised that they are not in favor of any additional steel buildings being constructed in that area.

On motion by Steve Lindaas, seconded by Ezra Baer, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed and discussed by the Planning Commissioners as they pertain to the requested permit. All items can be addressed with conditions applied.

Staff recommendations is for approval of this CUP amendment with the following conditions:

1. No outdoor storage shall be allowed;
2. Days and hours of operation shall be year-round, open 24 hours, seven days a week; and
3. Any other conditions the Planning Commission deems necessary.

Matt Jacobson advises that the State would have standards for construction between the hours of 10PM to 7AM and does not feel any construction would pass those noise standards. He did state that the construction hours could be a condition of this requested CUP or could also be a condition

on any future requested Building Permit.

On motion by Jenny Mongeau , seconded by Joel Hildebrandt, and unanimously carried, the Planning Commission *GRANTED* the Conditional Use Permit with the staff recommendations as follows:

- 1. No outdoor storage shall be allowed;**
- 2. Days and hours of operation shall be year-round, open 24 hours, seven days a week; and**
- 3. Any other conditions the Planning Commission deems necessary.**

UNFINISHED BUSINESS:

- **Matt Jacobson: 2021 Clay County Comprehensive and Transportation Plan Update**
Adam Altenburg from MetroCOG gave an update on the work done the past month on the Comprehensive and Transportation Plan Update. Approximately 66 people attended the two sessions of the Public Input. He feels the input sessions exceeded their expectations and feel that there was a wealth of information gathered to address the Plan update. The deadline for the online survey has been extended an additional week. Personnel meetings will be starting this week and there will be a meeting with each County departments. Nature Conservancy, RiverKeepers, Buffalo/Red River/Wild Rice watershed entities, and Audubon Group will be solicited for their input as well.

Matt Jacobson encouraged the rural township residents to complete the survey.

NEW BUSINESS:

The June meeting will be held on June 22nd, which is the 4th Tuesday, due to conflict with the Board of Equalization hearings.

Matt Jacobson shared that the city of Stirling request by the Spring Prairie Hutterian & Brethren has been dismissed by a Minnesota Administrative Law Judge. The issues for the dismissal had to do with lack of platting, and also due to their large amount of undeveloped agricultural land included in the request.

ADJOURNMENT:

On motion by Jenny Mongeau, seconded by Ezra Baer, and unanimously approved, the meeting adjourned at 10:45 PM.

Steve Mortensen, Planning Commission Secretary